

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

PRO-FOOTBALL, INC.,

Plaintiff,

v.

AMANDA BLACKHORSE, MARCUS  
BRIGGS-CLOUD, PHILLIP GOVER, JILLIAN  
PAPPAN, and COURTNEY TSOTIGH,

Defendants,

and

UNITED STATES OF AMERICA,

Intervenor.

Civil Action No. 1:14-cv-1043-LO-IDD

**PRO-FOOTBALL, INC.’S CONSENT MOTION FOR ENTRY OF  
FINAL JUDGMENT**

Plaintiff Pro-Football, Inc. (“PFI”) moves the Court to enter judgment in its favor. The grounds for granting this relief are as follows:

1. By complaint filed August 14, 2014, PFI filed this action against Amanda Blackhorse, Marcus Briggs-Cloud, Phillip Gover, Jillian Pappan and Courtney Tsotigh (“Defendants”) seeking judicial review of a decision issued by the Trademark Trial and Appeal Board (“TTAB”) scheduling the cancellation of six of PFI’s federal trademark registrations: Registration Nos. 1,606,810; 1,085,092; 987,127; 986,668; 978,824; and 836,122 (the “Registrations”). (Dkt. 1.) The TTAB scheduled cancellation of the Registrations based on the disparagement provision of § 2(a) of the Lanham Act, 15 U.S.C. § 1052(a). In its complaint, PFI

raised, *inter alia*, constitutional challenges to § 1052(a), including that the statute violates the First Amendment.

2. After Defendants answered (Dkt. 41), the United States intervened in this action to defend the constitutionality of § 1052(a) (Dkt. 46).

3. After briefing and argument by the parties and the United States, the Court entered a memorandum opinion and final judgment in favor of Defendants and against PFI, which, *inter alia*, upheld the constitutionality of § 1052(a) under the First Amendment. (Dkts. 161 & 162.)

4. PFI filed a timely notice of appeal to the United States Court of Appeals for the Fourth Circuit. (Dkt. 164.) While the appeal was pending, the Supreme Court of the United States determined that the disparagement provision of § 1052(a) violates the free speech clause of the First Amendment. *Matal v. Tam*, 137 S. Ct. 1744, 1751 (2017). In light of that ruling, PFI, Defendants and the United States agreed that *Tam* controls the disposition of this action and that the Court should enter judgment in PFI's favor. *See Pro-Football, Inc. v. Blackhorse*, No. 15-1874 (4th Cir.) (Dkts. 126-128.)

5. By an unpublished per curium opinion entered January 18, 2018, the Fourth Circuit vacated this Court's judgment and remanded the case "for further proceedings consistent with *Tam*." (Dkt. 171.)

6. PFI respectfully submits that, consistent with *Tam*, no further proceedings are required and that final judgment should be entered in PFI's favor.

7. Defendants and the United States consent to this relief.

WHEREFORE, PFI requests entry of final judgment in its favor. A proposed form of judgment is attached.

***The parties do not seek oral argument on this motion.***

Dated: February 9, 2018

Respectfully submitted,

/s/ Craig C. Reilly

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*Counsel for Plaintiff Pro-Football, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 9, 2018, I caused the foregoing pleading or paper to be filed and served electronically by the Court's CM/ECF system upon all registered users in this action.

/s/ Craig C. Reilly

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